UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,342	06/08/2012	6779118	R1341006-D	5786

40401   7590   02/20/2015
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EXAMINER
WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
02/20/2015	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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95/002,035	09/12/2012	6779118	RI1341006F	1745

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PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
_____

CISCO SYSTEMS, INC.
Requester

v.

LINKSMART WIRELESS TECHNOLOGY, LLC
Patent Owner
_____

Appeal 2014-007780
Reexamination Control Nos. 95/002,035 and 90/012,342 (merged)
Patent 6,779,118 B1
Technology Center 3900
_____

Before JAMES T. MOORE, MARC S. HOFF, and
DAVID M. KOHUT, *Administrative Patent Judges*.

KOHUT, *Administrative Patent Judge*

DECISION ON APPEAL

Patent Owner, Linksmart Wireless Technology, LLC, appeals under U.S.C. §§ 134 and 315 (2002) the Examiner's decision to adopt Requester's rejection of claims 16-24, 26, 27, 36-43, and 68-90[1] under certain grounds, as discussed below. An oral hearing was conducted with the Patent Owner on January 28, 2015. We have jurisdiction under 35 U.S.C. §§ 134 and 315 (2002).

We AFFIRM.

STATEMENT OF THE CASE

This proceeding arose from a request by a Third Party Requester for an *ex parte* reexamination (90/009,301) and from a request by Cisco Systems, Inc. for an *inter parte* reexamination (95/002,035) of U.S. Patent 6,779,118 B1, entitled "User Specific Automatic Data Redirection System," and issued to Ikudome et al. on August 17, 2004 (the "'118 patent"). A decision *sua sponte* merged both proceedings into this single *inter parte* reexamination proceeding. *See* Decision *Sua Sponte* Merging Reexamination Proceedings, mailed March 20, 2013.

The '118 patent describes a system that contains a redirection server that uses a rule set to control data passing between a user and a public network.

Claim 16, on appeal, was not amended during reexamination and reads as follows:

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[1] While claims 2-7, 9-14, 16-24, and 26-90 are subject to reexamination in the merged proceedings, only the claims listed are subject to the present appeal. App. Br. 3.

16. A system comprising:
     a redirection server programmed with a user's rule
set correlated to a temporarily assigned network address;
     wherein the rule set contains at least one of a
plurality of functions used to control data passing
between the user and a public network;
     wherein the redirection server is configured to allow
automated modification of at least a portion of the rule
set correlated to the temporarily assigned network
address;
     wherein the redirection server is configured to allow
automated modification of at least a portion of the rule
set as a function of some combination of time, data
transmitted to or from the user, or location the user
accesses; and
     wherein the redirection server is configured to allow
modification of at least a portion of the rule set as a
function of time.

STATEMENT OF THE REJECTIONS

Requester proposes rejections of the claims over the following prior

art references:

Fortinsky	US 5,815,574	Sept. 29, 1998
Wong	US 5,835,727	Nov. 10, 1998
Radia	US 5,848,233	Dec. 8, 1998
Willens	US 5,889,958	March 30, 1999
Stockwell	US 5,950,195	Sept. 7, 1999
He	US 6,088,451	July 11, 2000
Coss	US 6,170,012 B1	Jan. 2, 2001
Zenchelsky	US 6,233,686 B1	May 15, 2001
Ikudome	US 6,779,118 B1	Aug. 17, 2004

C. Rigney, et al., "Remote Authentication Dial In User Service (RADIUS),"
https://tools.ietf.org/html/rfc2138 (last accessed January 20, 2012).
(Hereinafter "RFC2138).

Patent Owner appeals the Examiner's adoption of the following rejections:

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 under 35 U.S.C. § 103(a) as obvious over the combination of Willens, RFC2138, and Stockwell.

Claims 16-18, 23, 24, 26, 36-43, 68-71, 76-84, and 86-90 under 35 U.S.C. § 103(a) as obvious over the combination of Willens, RFC2138, and Ikudome (hereinafter referred to as APA).

Claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

Claims 16-24 and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

Claims 40-43 under 35 U.S.C. § 103(a) as obvious over the combination of He, Zenchelsky, and APA.

Claims 40-43 under 35 U.S.C. § 103(a) as obvious over the combination of He, Zenchelsky, Fortinsky, and APA.

Claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over the combination of Coss and APA.

ISSUES

Did the Examiner err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "the redirection server is configured to allow automated modification," as recited in independent claims 16-23, 36-39, and 68?

Did the Examiner err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "instructions to the redirection sever to modify the rule set are received by . . . the redirection server," as recited in dependent claim 24, or "receiving instructions by the redirection server to modify at least a portion of the user's rule set," as recited in independent claim 83?

Did the Examiner err in combining Radia, Wong, and Stockwell?

ANALYSIS

Claims 16-23, 36-39, and 68-82

Patent Owner argues that the rejection of claims 16-23, 36-39, and 68-82 is in error because the Examiner has interpreted the limitation "configured to allow modification," as not requiring the redirection server to be used to perform the modification. App. Br. 13-14; Reb. Br. 10-12. Patent Owner contends that the correct interpretation, according to the Specification and the claims, requires the modification to be performed by the redirection server. App. Br. 14; Reb. Br. 10. Therefore, based on the Examiner's interpretation, Patent Owner contends that the combination of Radia, Wong, and Stockwell does not teach the disputed limitation. App. Br. 14; Reb. Br. 10. We disagree.

Each of independent claims 16-23, 36-39, and 68 recite the following full limitation "the redirection server is configured to allow automated modification of at least a portion of the rule set." The Examiner finds (Ans. 10-11) and Requester agrees (3PR Resp. Br. 6) that this limitation

should not be so narrowly interpreted as requiring the redirection server to perform the actual modification. The Examiner (Ans. 11) and Requester (3PR Resp. Br. 6) both cite to a portion of Patent Owner's Specification that supports a finding that Patent Owner contemplated something other than the redirection server performing the modification. Specifically, the Examiner (Ans. 11) and Requester (3PR Resp. Br. 6) cited the following from Patent Owner's Specification:

> In yet another embodiment, signals from the Internet 110 side of redirection server 208 can be used to modify rule sets being used by the redirection server . . . Of course, the type of modification an outside server can make to a rule set on the redirection server is not limited to deleting a redirection rule, but can include any other type of modification to the rule set that is supported by the redirection server as discussed above.

'118 Patent, col. 7, l. 58 – col. 8, l. 11.

Patent Owner argues that the Examiner and Requester take this citation out of context. App. Br. 15; Reb. Br. 11. Specifically, Patent Owner contends that the following citation proves that it is the redirection server that causes the modification, not the outside server (App. Br. 15):

> ". . . the web site then sends an authorization to the redirection that deletes the redirection to the questionnaire web site from the rule set for the user who successfully completed the questionnaire."

'118 Patent, col. 8, l. 3-6.

We disagree with Patent Owner. While we agree that the portion cited by Patent Owner contemplates the redirection server deleting a portion of the rule set, this citation does not refute the Examiner's citation that an outside server can also modify the rule set.

Patent Owner also argues that it would be impossible for the rule set to change without the redirection server being involved in the process. App. Br. 15; Reb. Br. 11. While we agree that the redirection server is present during the process, there is nothing in the Specification, or the claims, that require the redirection server to be actively involved in the process.

Therefore, under the broadest reasonable interpretation consistent with Patent Owner's Specification, we find no error in the Examiner's interpretation. There is nothing in Patent Owner's Specification or the claims, themselves, that persuasively indicate that the redirection server must be the component that performs the modification. Instead, as indicated by the Examiner (Ans. 11), the claim only requires that the redirection server "allow" the modification. Thus, we see no error in the Examiner's interpretation that something other than the redirection server can perform the modification to the rule set.

Additionally, Patent Owner argues that Radia fails to teach modification and instead teaches removing and replacing a rule set. App. Br. 13; Reb. Br. 11. For instance, Patent Owner contends that when a filter has outlived its usefulness a new filter is created and the new filter is configured in the router. App. Br. 16. Again, we disagree with Patent Owner's position.

The Examiner finds, and Requester agrees, that Radia teaches a system wherein a router receives instructions to modify filtering rules by reconfiguring the router. Ans. 11 (citing Radia, col. 6, l. 66-col. 7, l. 8). Thus, we agree that the router is not just configured, but reconfigured. Therefore, we do not find Patent Owner's arguments to be persuasive.

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Claims 24, 26, 40-43, and 83-90

Patent Owner argues that even if the Examiner's interpretation of the limitation listed above was correct, that interpretation would only apply to those claims. App. Br. 14. Patent Owner contends that claims 24, 26, 40-43, and 83-90 recite a different limitation that would, in fact. require the redirection server to perform the modification step and the combination of references fails to teach that limitation. *Id*. We disagree.

Claim 24 recites "instructions to the redirection server to modify the rule set are received by . . . the redirection server," and claim 83 recites "receiving instructions by the redirection server to modify at least a portion of the user's rule set." Claims 26 and 40-43 are dependent upon cancelled independent claim 25 which, before cancelled, recited similar language to claim 83.[2] The Examiner interprets (Ans. 10-11), and the Requester agrees (3PR Resp. Br. 6-7), that these claims only require the redirection server receive the instructions to modify the rule set and do not necessarily require the redirection server to perform the modification. We are not persuasively pointed to error with the Examiner's position, as there is nothing in the claim that indicates the redirection server must perform the actual modification to the rule set.

Additionally, the Examiner finds that, even if the claims are interpreted as Patent Owner contends they should be, the references read on the claims. Ans. 11. Specifically, the Examiner finds that Radia teaches a

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[2] In the event of further prosecution, we recommend the Examiner and Patent Owner address the cancellation of independent claim 25 and its non-cancelled dependent claims.

system wherein an ANCS sends instructions to a router to modify its
filtering rules. *Id.* The Examiner finds that when the router and ANCS are
combined to form the redirection server, the combination meets Patent
Owner's interpretation of the disputed claim limitations. *Id.*

Patent Owner argues that it would not make sense to combine the
router and the ANCS of Radia into one because each of these components
has its own separate and distinct functionality. App. Br. 15-16; Reb. Br. 13.
However, we agree with Requester that Radia teaches combining the ANCS
with SMS 114 and, thereby, contemplates the combination of multiple
components regardless of their functionality. 3PR Resp. Br. 9. As such, we
also agree with Requester that it would have been obvious to combine other
components within Radia's system, as the combination is nothing more than
a design choice.[3]

Additionally, Patent Owner argues that while Radia teaches that the
router can be a combination of components, Radia teaches that each of the
combined components must forward packets. Reb. Br. 12. Thus, Patent
Owner is arguing essentially that Radia teaches away from the combination
of components proposed by Requester. However, we are not pointed to, and
do not find in our review, sufficient evidence in the reference that only
allows the combination of components to be combined if they are able to
forward packets. Teaching an alternative or equivalent method does not

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[3] Making elements of a device integral or separable is considered to be an
obvious design choice and does not render an invention patentable. *See In re
Larson*, 340 F.2d 965, 968 (CCPA 1965); *In re Dulberg*, 289 F.2d 522, 523
(CCPA 1961).

teach away from the use of a claimed method. *See In re Dunn*, 349 F.2d 433, 438 (CCPA 1965).

Combination of Radia and Stockwell

Lastly, Patent Owner contends that the combination of Stockwell and Radia does not teach the disputed limitations addressed above. App. Br. 16-18; Reb. Br. 13. However, as indicated above, we find that the combination of Radia, Wong, and Stockwell does, in fact, teach the disputed limitations. Additionally, we find that the Examiner has adopted Requester's rejections identifying the relevant portions of each of the references relied on throughout the rejection. *See generally* Ans. 21 which incorporates the rejections from Exhibit BB, pp. 2-47. To the extent that the Examiner and Requester relied on the knowledge of one of ordinary skill in the art to combine the teachings of the references, this practice is consistent with current case law. For example, the Supreme Court explains

> Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. *See In re Kahn*, 441 F.3d 977, 988 (C.A.Fed.2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can

> take account of the inferences and creative steps that a person
> of ordinary skill in the art would employ.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007).

In this case, the conclusions of obviousness are clearly articulated and based on detailed factual findings that are supported by the references of record. *See* Ans. 21 which incorporates the rejections from Exhibit BB, pp. 2-47. Additionally, the reason a skilled artisan would combine the references is provided by the Examiner. Ans. 12. For example, the Examiner explains that it would have been obvious to combine Stockwell and Radia in order to improve filtering capabilities of routers. Ans. 12. We find no error in the Examiner's reasoning, and Appellants have failed to specifically address the Examiner's findings.

Thus, for all of the reasons stated *supra*, we sustain the Examiner's adoption of Requester's rejection of claims 16-24, 26, 27, 36-43, and 68-90 under 35 U.S.C. § 103(a) as obvious over Radia, Wong, and Stockwell.

Claims 16-24, 26, 27, 36-43, and 68-90 - Other proposed rejections

Our conclusions above address the patentability of all of the claims on appeal and, thus, render it unnecessary to reach the propriety of the Examiner's decision to adopt the proposed rejections of the same claims on a different basis. *Cf. In re Gleave*, 560 F.3d 1331, 1338 (Fed. Cir. 2009). As such, we need not reach the other proposed and adopted rejections listed above.

<div align="center">CONCLUSION</div>

The Examiner did not err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "the redirection server is configured to allow automated modification," as recited in independent claims 16-23, 36-39, and 68.

The Examiner did not err in finding that the combination of Radia, Wong, and Stockwell teaches or suggests "instructions to the redirection sever to modify the rule set are received by . . . the redirection server," as recited in dependent claim 24, or "receiving instructions by the redirection server to modify at least a portion of the user's rule set," as recited in independent claim 83.

The Examiner did not err in combining Radia, Wong, and Stockwell.

DECISION

We affirm the Examiner's decision to adopt the rejection of claims 16-24, 26, 27, 36-43, and 68-90 (all of the claims subject to this appeal) under 35 U.S.C. § 103(a) as obvious over the combination of Radia, Wong, and Stockwell.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

Requests for extensions of time in this *inter partes* reexamination proceeding are governed by 37 C.F.R. § 1.956. *See* 37 C.F.R. § 41.79.

AFFIRMED

Appeal 2014-007780
Reexamination Control Nos. 95/002,035
and 90/012,342 (merged)
Patent 6,779,118 B1

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